

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

JESUS LUNA,

Petitioner,

VS.

DOUGLAS DRETKE, DIRECTOR,  
TEXAS DEPARTMENT OF CRIMINAL  
JUSTICE, CORRECTIONAL  
INSTITUTIONS DIVISION,

Respondent.

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NO. 4:05-CV-168-A

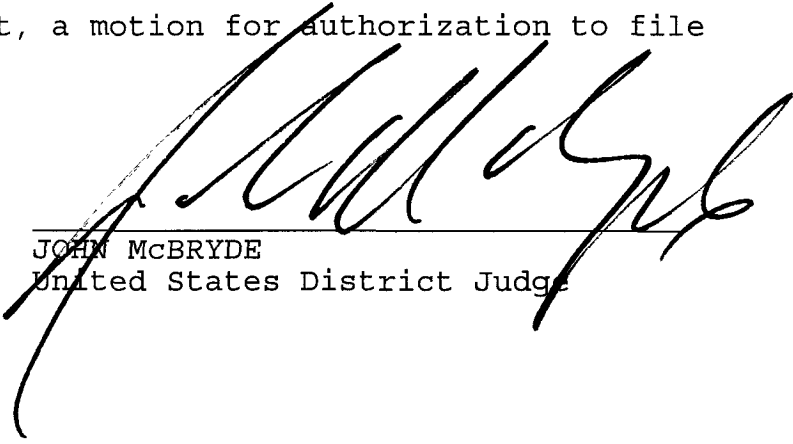
O R D E R

Came on for consideration the above-captioned action wherein Jesus Luna ("Luna") is petitioner and Douglas Dretke is respondent. This is a petition for writ of habeas corpus filed pursuant to 28 U.S.C. § 2254. On May 13, 2005, the United States Magistrate Judge issued his proposed findings, conclusions, and recommendation, and ordered that the parties file objections, if any, thereto by June 3, 2005. On May 25 and May 26, 2005, Luna filed his written objections. In accordance with 28 U.S.C. § 636(b)(1) and Rule 72 of the Federal Rules of Civil Procedure, the court makes a de novo determination of those portions of the proposed findings or recommendations to which specific objection is made. United States v. Raddatz, 447 U.S. 667 (1980). The court is not addressing any nonspecific objections or any frivolous or conclusory objections. Battle v. United States Parole Comm'n, 834 F.2d 419, 421 (5th Cir. 1987).

The magistrate judge found that Luna's petition was a successive petition under 28 U.S.C. § 2244(b), and he recommended that the petition be dismissed without prejudice to Luna's right to file a motion for leave to file a successive petition in the United States Court of Appeals for the Fifth Circuit under 28 U.S.C. § 2244(b)(3)(A).<sup>1</sup> Luna's objections are essentially repetitions of the arguments he advanced in his reply, filed May 5, 2005. For the reasons discussed in the magistrate judge's proposed findings, conclusions, and recommendations, Luna's objections are without merit. Therefore,

The court accepts the findings, conclusions and recommendation of the magistrate judge and ORDERS that the petition in this action be, and is hereby, dismissed without prejudice to Luna's right to file, in the United States Court of Appeals for the Fifth Circuit, a motion for authorization to file a successive petition.

SIGNED June 1, 2005.



JOHN MCBRYDE  
United States District Judge

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<sup>1</sup>Apparently due to a clerical error, page 5 of the magistrate judge's proposed findings, conclusions, and recommendation refers to the Fifth Circuit as the "United States District Court of Appeals for the Fifth Circuit."